

ORDINANCE NO. \_\_, SERIES 2009

AN ORDINANCE OF THE LOUISVILLE/JEFFERSON COUNTY  
METRO COUNCIL AUTHORIZING AND PROVIDING FOR THE  
ISSUANCE AND SALE OF LOUISVILLE/JEFFERSON COUNTY  
METRO GOVERNMENT INDUSTRIAL BUILDING REFUNDING  
REVENUE BONDS, SERIES 2009 (ST. MARY ACADEMY  
PROJECT) AND TAKING OTHER RELATED ACTION

Sponsored by Councilman Kelly Downard

Recitals

A. Louisville/Jefferson County Metro Government ("Metro Government") is a consolidated local government and political subdivision of the Commonwealth of Kentucky (the "Commonwealth") and as such is authorized by the Industrial Buildings for Cities and Counties Act, as amended, Sections 103.200 to 103.285 of the Kentucky Revised Statutes (the "Act"), to issue industrial building revenue bonds and to loan the proceeds thereof to any person to finance the cost of any "industrial building" (as defined in the Act), including specifically land, buildings, improvements, equipment, machinery, and other facilities suitable for any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including but not limited to classroom, laboratory, housing, administrative, physical educational and medical research and treatment facilities, in order to accomplish the public purposes of promoting the economic development of the Commonwealth, relieving conditions of unemployment, and encouraging the increase of industry therein.

B. The Act further authorizes Metro Government to issue its refunding bonds under the provisions of the Act to refund bonds previously issued and outstanding under the Act.

C. Roman Catholic Bishop of Louisville, a Kentucky nonprofit corporation doing business as St. Mary Academy (the "Borrower"), has applied to Metro Government for (i) the issuance under the Act of industrial building refunding revenue bonds in the principal amount of \$10,100,000 (the "Bonds"), (ii) the sale of the Bonds on a private negotiated basis to Fifth Third Bank (the "Bondholder"), and (iii) the loan of the proceeds of the Bonds to the Borrower to refund all of the Louisville/Jefferson County Metro Government Adjustable Rate Demand Industrial Building Revenue Bonds, Series 2008 (St. Mary Academy Project) issued under the Act and presently outstanding in the principal amount of \$10,100,000 (the "Prior Bonds").

D. Pursuant to KRS 103.230(1), the Borrower has requested in writing of the Mayor of Metro Government that the sale of the Bonds be made privately upon a negotiated basis to the Bondholder.

E. In order to accomplish the public purposes of promoting the economic development of the Commonwealth, relieving conditions of unemployment, and encouraging the increase of industry therein, Metro Government considers it necessary and proper to (i) authorize the issuance

and sale of the Bonds and the loan of the proceeds thereof to the Borrower to refund the Prior Bonds, (ii) the execution and delivery on behalf of Metro Government of the Bond Documents hereinafter identified, and (iii) take other related action.

NOW, THEREFORE, BE IT ORDAINED by the Legislative Council of the Louisville/Jefferson County Metro Government (the "Metro Council") as follows:

1. Public Purposes. Metro Council hereby finds and declares that the issuance of the Bonds and the loan of the proceeds thereof to the Borrower to refund the Prior Bonds, as herein provided, will further the public purposes of the Act by promoting the economic development of the Commonwealth, relieving conditions of unemployment, and encouraging the increase of industry therein.

2. Authorization of the Bonds and the Project. For the purposes set forth in the preamble hereto, there is hereby authorized and directed:

A. the issuance, execution, sale, and delivery of the Bonds, as provided in the Bond Purchase Agreement ;

B. the loan of the proceeds of the Bonds to the Borrower to refund the Prior Bonds, as provided in the Loan Agreement hereinafter identified; and

C. the execution and delivery on behalf of Metro Government of the Bond Documents.

3. Authorization of Bond Documents. The Mayor or Deputy Mayor, and the Metro Council Clerk or Deputy Metro Council Clerk, are hereby authorized and directed to execute and deliver on behalf of Metro Government the following documents (collectively, the "Bond Documents"), substantially in the respective forms attached hereto as exhibits, with such changes therein as the officers executing such documents on behalf of Metro Government shall approve, as shall be conclusively evidenced by their execution and delivery thereof:

A. Bond Purchase Agreement by and among Metro Government, the Borrower, and the Bondholder (Exhibit A);

B. Loan Agreement by and among Metro Government, the Borrower, and the Bondholder (Exhibit B); and

C. Tax Compliance Agreement by and among Metro Government, the Borrower, and the Bondholder (Exhibit C).

4. Further Acts and Deeds. The Mayor, the Deputy Mayor, the Metro Council Clerk, the Deputy Metro Council Clerk, the County Attorney, and other appropriate officers and employees of Metro Government are hereby authorized and directed to execute, acknowledge, and deliver on behalf of Metro Government any and all papers, instruments, certificates, affidavits, and other documents and to do and cause to be done any and all acts and things necessary or proper for entering into, delivering, and performing this ordinance, the Bond Documents, and the Bonds,

provided that neither Metro Government nor any of its elected officials, officers, employees, or agents incur any general liability thereby.

5. No Sectarian Use of Bond Proceeds. As provided in the Loan Agreement, none of the proceeds of the Bonds shall be used, directly or indirectly, to pay, to reimburse the Borrower for the payment of, or to refund indebtedness the proceeds of which were used to pay, for the acquisition, construction, renovation, remodeling or equipping or any of the expenses of any institution, place or building, or any portion thereof, used or to be used for sectarian instruction or study or as a place for devotional activities or religious worship or in connection with any part of the program of a school or department of divinity for any religious denomination or the training of ministers, priests, rabbis or similar persons in the field of religion.

6. Limited Liability. No recourse shall be had for the payment of the principal of or premium or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement therein contained against any past, present or future elected official, officer, employee, or agent of Metro Government, as such, either directly or through Metro Government, under any rule of law or equity, statute or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such elected officials, officers, employees, or agents as such shall be expressly waived and released as a condition of and consideration for the enactment of this ordinance and the issuance of the Bonds.

7. Bonds Not a General Obligation. **THE BONDS SHALL NOT BE A GENERAL OBLIGATION OR INDEBTEDNESS OF METRO GOVERNMENT, THE COMMONWEALTH, OR ANY AGENCY OR POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF THE CONSTITUTION AND THE LAWS OF THE COMMONWEALTH BUT SHALL BE PAYABLE SOLELY FROM THE LOAN REPAYMENTS TO BE MADE BY THE BORROWER PURSUANT TO THE LOAN AGREEMENT AND ANY SECURITY PLEDGED THEREFOR.**

8. Severability. The provisions of this ordinance are severable, and if any section, phrase, or provision (other than Section 5 hereof) shall for any reason be declared invalid or unenforceable, such declaration shall not affect the validity of the remainder of this ordinance.

9. Prior Conflicting Actions Superseded. To the extent that any prior ordinance or resolution of Metro Government is in conflict with the provisions of this ordinance, the provisions of this ordinance shall prevail and be given effect.

10. Effective Date. This ordinance shall be in full force and effect from and after its enactment and publication as provided by law.

INTRODUCED, SECONDED, AND GIVEN FIRST READING at a duly convened regular meeting of the Louisville/Jefferson County Metro Council held on \_\_\_\_\_, 2009.

GIVEN SECOND READING AND ENACTED at a duly convened regular meeting of the Louisville/Jefferson County Metro Council held on \_\_\_\_\_, 2009, signed by the Mayor of Metro Government as evidence of his approval, attested under seal by the Metro Council Clerk, and ordered to be published in summary form, filed, and indexed as provided by law.

\_\_\_\_\_  
Kathy Herron  
Metro Council Clerk

\_\_\_\_\_  
David Tandy  
President of the Metro Council

\_\_\_\_\_  
Jerry E. Abramson, Mayor

Approved: \_\_\_\_\_  
Date

APPROVED AS TO FORM AND LEGALITY:

Mike O'Connell  
Jefferson County Attorney

By: \_\_\_\_\_  
James T. Carey  
Assistant County Attorney

CERTIFICATION

The undersigned certifies that she is the duly appointed and acting Council Clerk of the Louisville/Jefferson County Metro Council, that the foregoing ordinance was duly adopted at a duly convened meeting of the Council held on \_\_\_\_\_, 2009, that all actions taken in connection with such ordinance were in compliance with the requirements of KRS 61.800 to 61.850, and that said ordinance is now in full force and effect, all as appears from the official records of Metro Government in my custody and under my control.

\_\_\_\_\_  
Council Clerk

(SEAL)

Dated: \_\_\_\_\_, 2009

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